

Appl. No. 10/612,254
Amdt. Dated June 30, 2005
Reply to Office Action of March 30, 2005

• • R E M A R K S / A R G U M E N T S • •

The Official Action of March 30, 2005 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment independent claims 1 and 9 have been changed to recite that the upper and lower opposed planar guide plates are coupled together so as to allow for relative rotational movement of said upper and lower opposed planar guide plates about a common axis which extends through the upper and lower guide plates.

This change to the independent claims was made in response to the outstanding rejection of the claims under 35 U.S.C. §112, second paragraph, and is believe to more clearly describe the movement of the guide plates.

Entry of the changes to the claims is respectfully requested.

Claims 1-20 stand pending in this application.

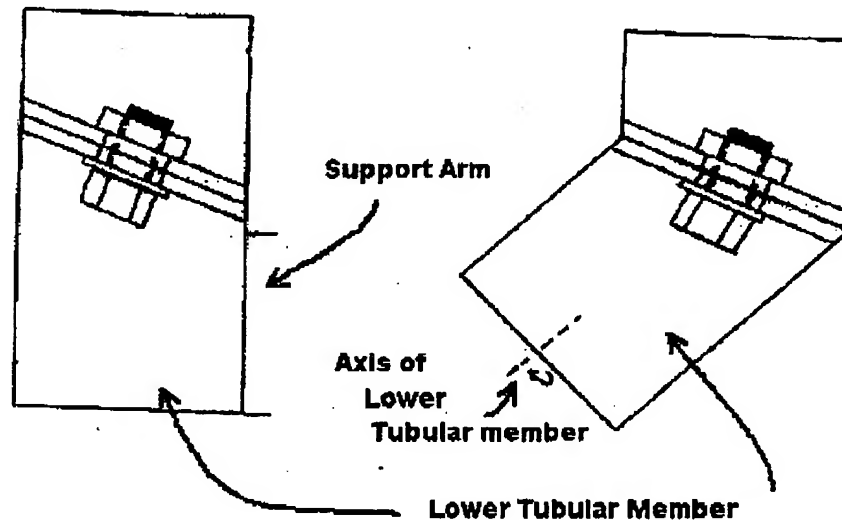
Claims 1-20 stand rejected under 35 U.S.C. §112, second paragraph. Under this rejection the Examiner stated that:

The recitation upper and lower opposed guide plates which provide for relative rotational movement there between to simultaneously effect pivotal movement...while effecting rotational movement...

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was unclear.

For the Examiner's reference, a copy of applicant's Fig. 5 is presented herebelow with the lower guide plate 9, lower tubular member 6 and support arm 2 in two different positions that are produced by rotating the lower guide plate (and tubular member 6 and support arm 2) 180° with respect to the axis that extends through threaded element 22 (the common axis recited in the claims):



As the Examiner will note, the support arm simultaneously rotates about its central axis while the central axis of the support arm pivots with respect to the cooperative tubular assembly.

This movement is caused by the use of the upper and lower opposed planar guide plates which are coupled together for relative rotational movement about the common axis that extends through threaded coupling element 22.

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When the upper tubular member is attached to a structure such as the trailer, the cooperation of the upper and lower opposed planar guide plates causes the support arm to move as depicted in Figs. 6-8 so, in the illustrated case, the spare tire 26 pivots as it moves out from under the trailer (together with support arm 2).

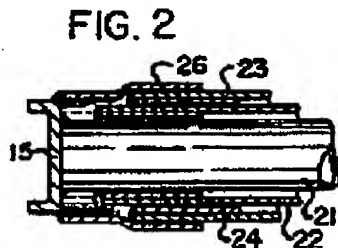
It is submitted that the independent claims satisfy the requirements of 35 U.S.C. §112, second paragraph since they particularly point out and distinctively claim what the inventor considers to be his invention.

Claims 1-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No 3,648,867 to Beavers.

The Examiner has relied upon Beavers as disclosing "a spare tire carrier support arm 21 and tubular assembly 21, 22, 23, 24, 26."

"By way of further explanation," the Examiner refers to Fig. 2 of Beaver as disclosing "an upper guide plate 26, 23 and a lower guide plate 24, 22 that are coupled together (col. 1, line 71).

Figure 2 of Beaver is reproduced here:



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Beaver discloses that element 26 is a "dust cap" that is positioned on (to protect) "tube 23" and that element 24 is a "stop" and element 22 is one of "three tubes designated 21, 22, and 23."

Applicant's independent claims recite "upper and lower opposed planar guide plates."

With reference to Beaver the Examiner states:

It is noted that a plane, i.e. planar, is defined by the X-Y plane, and rotation is about an X-axis which extends through the upper and lower planar guide plates. Further, it is noted that the upper planar guide plate 26, 23 and a lower planar guide plate 24, 22 rotate about an axis as shown in Beaver FIG/ 5, to cause movement of the support arm.

Beavers; however, does not teach upper and lower planar guide plates or any similar planar support structure, much less upper and lower planar guide plates that cooperate to cause simultaneous rotational and pivotal movement of a support arm.

For pivotal movement Beaver relies upon "swivel bracket" 15 which is remote an operates independently (as far as movement of the latching bracket 22) of the elements depicted in Fig. 2 that the Examiner relied upon.

Accordingly, Beavers does not anticipate applicant's claimed invention on the basis of structural elements or function.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

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It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.


Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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